Parke (1864) 17 N. J. Eq. 415. This rule is founded on the equitable principle of prevention of fraud, see *Dearle* v. *Hall, supra,* and the general proposition that since all assignees in good faith and for value stand on equal equities, if one asserts his equity and gains a legal title, he will not be divested of it, see *Judson* v. *Corcoran, supra,* at p. 614, in favor of a prior assignee who has decreased his equitable right by neglecting to assert it, see *Dearle* v. *Hall, supra,* at p. *21, and may even have created an estoppel against himself thereby. *Cf. Herman* v. *Connecticut Mut. Life Ins. Co., supra.* And some jurisdictions have preferred the subsequent assignee first giving notice to prior assignees even though no settlement has been had. *Methven* v. *Staten Island Light etc. Co.* (C. C. A. 1895) 66 Fed. 113; *Graham Paper Co.* v. *Pembroke* (1899) 124 Cal. 117, 54 Pac. 625; *In re Phillips' Estate, Appeal of Moses,* (1903) 205 Pa. 515, 55 Atl. 213. In such cases the equitable reasons above do not apply, *Tingle* v. *Fisher* (1882) 20 W. Va. 497, 510, and the contrary view, permitting the first assignee to prevail on the ground that the assignor has thereby divested himself of his title to the chose in action and has nothing to assign subsequently, seems sound. *Fortunato* v. *Patten* (1895) 147 N. Y. 277, 41 N. E. 572; *Burton* v. *Gage* (1902) 85 Minn. 355, 88 N. W. 997; see *Taylor* v. *Barton Child Co.* (1917) 228 Mass. 126, 131, 117 N. E. 43. Where, as in the principal case, attaching creditors or a trustee in bankruptcy contend against a prior assignee, the equities are more clearly in favor of the assignee and he will prevail. *Niles* v. *Mathusa* (1900) 162 N. Y. 546, 57 N. E. 184; *In re Phillips' Estate, Appeal of United Security Life Ins. etc. Co.* (1903) 205 Pa. 525, 55 Atl. 216; *In re Cincinnati Iron Store Co.* (C. C. A. 1909) 167 Fed. 486; *Lewis* v. *Bush* (1883) 30 Minn. 244, 15 N. W. 113; but *cf. Laclede Bank* v. *Schuler* (1887) 120 U. S. 511, 7 Sup. Ct. 644.

BANKRUPTCY—SCHEDULED DEBTS—BURDEN OF PROOF.—In a suit against a bankrupt, as prior indorser of a note, whose liability on it became due after the filing of his petition in bankruptcy but before the expiration of the time for proof of claims, defendant produced his discharge in bankruptcy and rested. *Held,* one judge dissenting, that the burden of proving that his debt was not duly scheduled and that he had no notice of the bankruptcy proceedings, was on the plaintiff. *Manheim* v. *Loewe* (App. Div. 1st Dept. 1918) 173 N. Y. Supp. 260.

A discharge in bankruptcy is a personal defense. See *First Internat'l Bank of Portal* v. *Lee* (1913) 25 N. D. 197, 141 N. W. 716, and is available only with respect to such debts as are described by the statute. Bankruptcy Act §§ 1, 17, 63; 30 Stat. 544, 550, 562; *Williams* v. *United States Fidelity etc. Co.* (1915) 236 U. S. 549, 35 Sup. Ct. 289. The plain intent of the Bankruptcy Act is that an unscheduled debt is not discharged unless the creditor had notice or actual knowledge of the bankruptcy proceedings. Bankruptcy Act §17, 32 Stat. 798; *Miller* v. *Girasti* (1912) 226 U. S. 170, 33 Sup. Ct. 49; *Morrison* v. *Vaughan* (1907) 119 App. Div. 184, 104 N. Y. Supp. 169. It would, therefore, seem that the defendant should be required to show not merely his discharge, but its application to the debt upon which suit had been brought, and hence he should demonstrate that the debt owing to the plaintiff had been duly scheduled or that he had been advised of the bankruptcy. *Fields* v. *Rust* (1904) 36 Tex. Civ. App. 350, 82 S. W. 331; *Baily* v. *Gleason* (1903) 76 Vt. 115, 56 Atl. 537;

contra, Alting v. *Straka* (1908) 118 Ill. App. 184; *Laffon* v. *Keener* (1905) 138 N. C. 281, 50 S. E. 654. While this was formerly held in the principal jurisdiction, *Graber* v. *Gault* (1905) 103 App. Div. 511, 93 N. Y. Supp. 76; *Wiedenfeld* v. *Fillinghast* (1907) 54 Misc. 90, 104 N. Y. Supp. 712, these cases have been reversed by shifting the burden of proof to the plaintiff. *Matter of Peterson* (1910) 137 App. Div. 435, 121 N. Y. Supp. 738. Accepting the majority opinion as to debts in general, the distinction suggested in the dissenting opinion, between debts and obligations accrued at the time the schedules were prepared, and contingent liabilities whose dischargeability depends upon whether they became fixed debts in time to be allowed in the bankruptcy proceedings, seems without foundation. The only matter of practical interest under the Act is whether or not the claim now sued upon was dischargeable at the time of the bankruptcy, and if it was, its particular nature is of no moment. *Cf.* Colley, Bankruptcy (11th ed.) 963; *Moch* v. *Market St. Nat'l. Bank* (C. C. A. 1901) 107 Fed. 897. The decision in the principal case, though in accord with the weight of authority, would seem wrong in principle.

BANKS AND BANKING—TRANSFER OF TRUST FUNDS—DUTY TO INQUIRE. —*M* wished to obtain a loan, but was informed by the plaintiff bank that she could not assign, as security, a bank book of a deposit in the name of "*M*, in trust for *F*", in the defendant savings bank. It was suggested that the money be put in her individual name and in this the plaintiff acquiesced. Accordingly, and without the knowledge of *F*, *M* drew the entire trust fund, re-deposited it to her individual account in the defendant bank, gave the new pass book as security and obtained the loan. The defendant acknowledged the assignment of the account. *Held,* one judge dissenting, that the bank lending the money was not put upon inquiry as to whether the fund was being diverted from the purposes of the trust. *Corn Exchange Bank* v. *Manhattan Savings Inst. et al.* (App. Term 1st Dept. 1919) 173 N. Y. Supp. 799.

Where checks drawn by a trustee on the trust funds in another bank were deposited in the defendant bank to his individual account, which was used, in part, to pay an individual indebtedness of the trustee to that bank, it was held that the bank was thereby put on notice of a breach of trust and was liable for the money so misappropriated. *Bishop* v. *Yorkville Bank* (1916) 218 N. Y. 106, 112 N. E. 759; 16 Columbia Law Rev. 341, 516. In the principal case there was, similarly, a withdrawal by check to the order of the trustee as an individual and a re-deposit to her individual account, but in the bank holding the trust fund. The plaintiff knew of this and nevertheless loaned money to the trustee, taking as security the pass book evidencing the individual deposit. The court in not holding the plaintiff to have been put upon notice seems to have taken a position difficult to reconcile with that of the Court of Appeals in *Bishop* v. *Yorkville Bank, supra.*

CONSTITUTIONAL LAW—COMPULSORY REGISTRATION OF LAND TITLE BY EXECUTORS AND ADMINISTRATORS.—The state legislature passed a statute requiring executors and administrators to register the title to all of their decedents' real estate, unless excused by an order of the court where such registration appeared to be a hardship. 2 Ill. Stat. Ann. § 2290. *Held,* the statute was unconstitutional, as denying to the